

# HOUSE BILL REPORT

## HB 2165

---

### As Reported by House Committee On: Capital Budget

**Title:** An act relating to requiring the projected costs of certain criminal justice legislation to be appropriated into accounts to be used for capital costs.

**Brief Description:** Requiring the projected costs of certain criminal justice legislation to be appropriated into accounts to be used for capital costs.

**Sponsors:** Representatives Kagi, Dunshee, Hankins and O'Brien.

#### **Brief History:**

##### **Committee Activity:**

Capital Budget: 2/28/05, 3/2/05 [DPS].

#### **Brief Summary of Substitute Bill**

- Requires the Office of Financial Management to prepare a fiscal note for any bill introduced before the Legislature that would result in new increased periods of incarceration in correctional facilities that house offenders.
- Requires the Legislature to transfer funds from the State General Fund to Corrections Special Reserve Accounts established in the State Treasury for any enacted criminal justice bill that increases state or local operating costs.
- Authorizes expenditures from the Corrections Special Reserve Accounts to be used for capital expenses relating to state or local correctional institutions.

---

### HOUSE COMMITTEE ON CAPITAL BUDGET

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Hankins, Assistant Ranking Minority Member; Blake, Chase, Eickmeyer, Ericks, Green, Hasegawa, Lantz, Moeller, Morrell, O'Brien, Schual-Berke, Springer and Upthegrove.

**Minority Report:** Do not pass. Signed by 11 members: Representatives Jarrett, Ranking Minority Member; Cox, Ericksen, Holmquist, Kretz, Kristiansen, McCune, Newhouse, Roach, Serben and Strow.

**Staff:** Yvonne Walker (786-7841).

#### **Background:**

Fiscal Note. Fiscal notes identify the fiscal impact on the operating and capital budgets. Generally, the Office of Financial Management works in cooperation with appropriate legislative committees, for establishing procedures for the provision of fiscal notes on the expected fiscal impact of bills that increase or decrease state or local government revenue or expenditures. Fiscal notes showing an impact on state government must indicate by fiscal year the impact for the remainder of the biennium in which the bill or resolution will first take effect as well as a cumulative forecast of the fiscal impact for the succeeding four fiscal years. Fiscal notes showing an impact on a local government must indicate by fiscal year the total impact on the local governments involved for the first two years the legislation would be in effect and also a cumulative forecast of the fiscal impact for the next six years.

Corrections Special Reserve Accounts. In the early 1990s, the State of Virginia enacted legislation that required its Virginia Criminal Sentencing Commission to review all new proposed legislation to determine its fiscal impact on adult and juvenile correctional resources. The requirement for a fiscal impact statement included, but was not limited to, those bills which: (1) added new crimes for which imprisonment or commitment is authorized; (2) increase the periods of imprisonment for existing crimes; (3) imposed minimum or mandatory minimum terms of imprisonment; or (4) modified the law governing the release of prisoners in such a way that the time served in incarceration would increase.

The amount of the estimated fiscal impact is required to be printed on the face of each criminal justice bill. For each law enacted which results in a net increase in periods of imprisonment in a correctional facility, a one-year appropriation must be transferred from the State General Fund to a Corrections Special Reserve Fund. Expenditures from the Corrections Special Reserve Account can only be used for capital expenses relating to correctional institutions.

Virginia's statute prohibits any proposed legislation with a correctional fiscal impact from being enacted unless necessary funding is appropriated to address estimated costs.

---

### **Summary of Substitute Bill:**

Fiscal Note. The Office of Financial Management (OFM) must prepare a fiscal note for any bill introduced before the Legislature that would result in a new increase in periods of incarceration in state or local correctional facilities that house juveniles or adult offenders. This applies to any bill that: (1) adds a new crime which requires a period of incarceration; (2) increases the periods of incarceration authorized for existing crimes; (3) imposes or increases mandatory minimum terms of incarceration; or (4) modifies any statute governing the release of adult or juvenile offenders in such a way that their incarceration time would be increased.

The OFM must forward a copy of each required fiscal note to the sponsor of the bill. The sponsor must, on a form devised or adopted by the OFM, state a revenue source or budget reduction declaring how the proposed bill will be funded. The sponsor must return the form back to the OFM who must then transmit copies to the chairperson of the committee to which

the bill was referred upon introduction in the house of origin and the appropriate legislative fiscal committees.

The Legislature must make a one-time transfer of funds from the general fund to either the State or the Local Corrections Special Reserve Account established in the State Treasury for any criminal justice bill enacted where a fiscal note is required. Generally, the required transfer of funds must be in an amount equal to the year containing the highest estimated increase in operating costs associated with the enacted law as stated in the fiscal note. However, the amount to be transferred may be determined by the Legislature if the fiscal note estimating the operating costs is indeterminate or if the Legislature's best estimate of the increased operating costs differs from the amount estimated in the fiscal note.

The state's expenditure limitations do not apply to transfers made to the Corrections Special Reserve Accounts.

Corrections Special Reserve Accounts. A Local and a State Corrections Special Reserve Account is created in the State Treasury. Revenues in each of the accounts consist of funds transferred from the general fund due to the enactment of criminal justice bills where fiscal notes were required, as well as any accrued interest.

Expenditures from the State Corrections Special Reserve Account may only be used for capital expenses relating to state correctional institutions, including the cost of planning or preplanning studies that may be required to initiate capital projects. Expenditures from the Local Corrections Special Reserve Account may only be used for reimbursement of local government capital expenses pursuant to a prioritized list of submitted local petitions that are recommended for funding by the Legislature.

Prioritized lists of Local Petitions. Local governments may submit petitions to the Department of Community, Trade and Economic Development (DCTED) for the reimbursement of increased capital costs associated with enacted state statutes that have resulted in an increase in offender populations in locally operated adult or juvenile correctional facilities. The petitions may also include the cost of planning or preplanning studies that may be required to initiate capital projects.

The DCTED, in consultation with the Washington Association of Sheriffs and Police Chiefs (WASPC), must develop procedures for processing, auditing the validity, and for prioritizing the petitions. Prioritization of the petitions must be based on, but not limited to, factors such as the disproportionate fiscal impact relative to the county budget, efficient use of resources, and whether the costs were mainly incurred because of changes in state criminal law.

Before January 1 of each year, the DCTED, in consultation with the WASPC, must develop and submit to the appropriate fiscal committees of the Legislature a prioritized list of submitted petitions that are recommended for funding by the Legislature.

**Substitute Bill Compared to Original Bill:**

The amendment requires the OFM to send a copy of the fiscal note to the sponsor of any bill introduced before the Legislature that increases criminal justice costs. The sponsor of the bill must state how the bill will be funded and to return his or her response back to the OFM. The OFM must forward the responses back to the committee where the bill was referred upon introduction and the appropriate fiscal committees.

---

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** As the Legislature is facing the daunting task of building a new prison, it is appropriate to examine ways to invest in the capital costs associated with changes in criminal sentencing. This legislation requires the Legislature to consider how to fund and where to house criminals when their legislation increases sentence requirements. It is similar to legislation that was passed in Virginia and in which they have had twelve years of experience in implementing it. It holds legislators accountable for when they propose an increase in penalties and requires the Legislature to set aside money to build new capital facilities associated with the increased incarceration rates.

**Testimony Against:** None.

**Persons Testifying:** Representative Kagi, prime sponsor; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

**Persons Signed In To Testify But Not Testifying:** None.